

## **REMARKS/ARGUMENTS**

This is intended to be a full and complete response to the Office Action dated December 6, 2005. Claim 1 has been amended. New dependent claims 13 and 14 have been added. Support for such amendment and new claims can be found throughout the specification. Upon entry of this amendment, claims 1-14 are pending in this application. No new matter has been added. In view of the amendments presented above and the following discussion, the applicants believe that all claims are in allowable form.

### **I. THE PROVISIONAL DOUBLE PATENTING REJECTION SHOULD BE WITHDRAWN**

In light of the above amendments and following remarks, the only rejection remaining in the instant matter is the Examiner's provisional rejection. As such, the provisional rejection should be withdrawn and the case allowed. Applicants reserve the right to file a terminal disclaimer to obviate this rejection, should the conflicting claims be patented before allowance of the instant matter

### **II. THE PENDING CLAIMS ARE PATENTABLE OVER THOMAS**

The Examiner rejected the claims under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,242,074 issued to Thomas ("Thomas")<sup>1</sup>. Applicants submit that the pending claims are not anticipated by this reference. In particular, applicants submit that Thomas fails to teach several of the claimed limitations, including any macrofeatures as required in the claimed invention. In addition, Thomas clearly fails to teach or suggest any two-layer structure comprising a first layer and second layer wherein the second layer comprises apertures defined by aperture sidewalls (as claimed) that are spaced from the first layer of the structure as required in the claimed invention.

Rather, Thomas is directed to a *microapertured film* comprising a fibrous *planar surface* (i.e. side 83 in Figs. 4A-4B) and *microapertures* defined by sidewalls that extend

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<sup>1</sup> Applicants do not necessarily agree that this patent is properly cited as prior art and hereby reserve the right to swear behind such patent at a later date.

from the planar surface 83 through the material (See, for example, col. 10, lines 32-39). Thus, any layer which may contact the Thomas apertured film either contacts a planar continuous surface (i.e. layer 86 contacting surface 83 in Fig. 4B) or contacts the *microaperture* protrusions. Thus, neither surface of the Thomas microapertured film comprises macrofeatures, as defined in the instant application, and there is clearly no teaching or suggestion of any layer which contacts the Thomas microapertured film "at selected areas located between [said] macrofeatures," as required by the claimed invention.

Moreover, Thomas teaches an article comprising an apertured layer wherein all apertures and aperture sidewalls, starting in the first surface of the layer and ending in a second plane defining the caliper, clearly abut the adjoining layer and are *not* spaced apart therefrom. In particular, the apertures and sidewalls of the Thomas layer, *starting in the first surface and extending through to a second plane* defining the caliper of the layer, are all adjacent to, and abutting, any adjoining layer (See Figs. 4B and 6). Thus, any apertures and aperture sidewalls of Thomas that meet the claimed requirements are clearly *not* spaced apart from the adjacent layer, as required in the claimed invention. Accordingly, Thomas does not teach each and every limitation of the claimed invention and the rejection should be withdrawn.

### III. CONCLUSION

Applicants submit that all claims now pending are in condition for allowance. Accordingly, both reconsideration of this application and swift passage to issue are earnestly solicited. If the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Brett Freeman at 732-524-3428 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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